

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

Darrell Lee Birch,)	Civil Action No.: 4:12-930-MGL
)	
Plaintiff,)	
)	
v.)	<u>ORDER AND OPINION</u>
)	
Marion County Sheriff Office, Cpl. Ernie)	
Grice, Agent Mark Collins, Agent A. Cribb,)	
E. Walter,)	
)	
Defendants.)	
_____)	

Plaintiff Darrell Lee Birch ("Plaintiff"), proceeding *pro se*, brought this action pursuant to Title 42, United States Code, Section 1983. (ECF No. 1.) In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B), D.S.C., this matter was referred to United States Magistrate Judge Kaymani D. West for pre-trial handling and a Report and Recommendation. On November 2, 2012, Defendants Grice and Collins filed a motion for summary judgment (ECF No. 58), and Defendant Cribb filed a separate motion for summary judgment. (ECF No. 59.) Since Plaintiff is *pro se* in this matter, the Court entered an order pursuant to *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975) on November 5, 2012, advising Plaintiff of the importance of a dispositive motion and of the need for him to file an adequate response. (ECF No. 60.) Plaintiff filed an opposition on November 19, 2012 (ECF No. 66), as well as a reply on November 27, 2012. (ECF No. 69.)

On June 20, 2013, Magistrate Judge West issued a Report recommending that Defendants' motions for summary judgment be granted and this case be dismissed. (ECF No. 85.) The Magistrate Judge advised Plaintiff of the procedures and requirements for filing objections to the Report and Recommendation and the serious consequences if he

failed to do so. (ECF No. 85-1.) Plaintiff filed no objections and the time for doing so expired on July 8, 2013.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the Court. See *Mathews v. Weber*, 423 U.S. 261 (1976). The Court is charged with making a *de novo* determination of any portion of the Report and Recommendation of the Magistrate Judge to which a specific objection is made. The Court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. See 28 U.S.C. § 636(b). The Court reviews the Report and Recommendation only for clear error in the absence of an objection. See *Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that "in the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.") (citation omitted).

After reviewing the motions and responses, the record, and the Report and Recommendation of the Magistrate Judge, the Court finds no clear error. Accordingly, the Court adopts and incorporates the Report and Recommendation (ECF No. 85) by reference into this order. It is therefore ORDERED that Defendants' motions for summary judgment are GRANTED, and this case dismissed *with prejudice*.

IT IS SO ORDERED.

/s/Mary G. Lewis
United States District Judge

July 16, 2013
Spartanburg, South Carolina